

**Minutes of Meeting**  
**Health Services Council**  
**Project Review Committee-II**

**DATE: 30 March 2006**

**TIME: 3:00 PM**

**LOCATION: Health Policy Forum**

**ATTENDANCE:**

**Committee II: Present: Victoria Almeida, Esq., (Vice Chair), Raymond C. Coia, Sen. Catherine E. Graziano, RN, Ph.D., Robert J. Quigley, DC, (Chair), Larry Ross, Reverend David Shire (Secretary)**

**Not Present: Rosemary Booth Gallogly, Wallace Gernt, Esq., Maria R. Gil**

**Excused Absence: Denise Panichas**

**Staff: Valentina D. Adamova, Michael K. Dexter, Joseph G. Miller, Esq., Andrea Therrien (Intern)**

**Public: (see attached)**

## **1. Call to Order and Approval of Minutes**

**The meeting was called to order at 3:00 PM. The minutes of the 23 February 2006 and 2 March 2006 Project Review Committee-II meetings were approved as submitted. The Chairman noted that conflict of interest forms are available to any member who may have a conflict. The Chairman stated that due to the Open Meetings Act, the minutes of the meetings have to be available to the public by the next meeting date or within thirty-five days, which ever is sooner. The Chairman stated that because the next meeting might not occur within thirty-five days or the minutes might not be available by the next meeting time, he would ask the Committee members to vote to extend the availability of minutes beyond the time frame as provided for under the Open Meetings Act. A motion was made and seconded, and the motion passed by a vote of six in favor and none opposed (6-0) that the availability of the minutes for this meeting be extended beyond the time frame as provided for under the Open Meetings Act. Those members voting in favor were: Almeida, Coia, Graziano, Quigley, Ross, Shire.**

## **2. General Order of Business**

**The first item on the agenda was a Change Order Request by Wayland Square Surgicare [HealthSouth Corporation] to change conditions of approval (regarding provision of free care) of the 25**

October 1992 approval of the Certificate of Need application to establish a freestanding ambulatory surgical center in Providence. Staff noted that at the previous meeting it was requested that the applicant provide the form for charity care, identify what HealthSouth does nationally with respect to charity care, and that a surgeon from the facility be in attendance. Staff stated that this facility has been before this body twice since the initial Certificate of Need approval in 1992. It was noted that in September of 1994, this facility was approved for a change in effective control by Columbia HCA. That decision references the 5% charity care requirement. During the review, a letter was submitted from Columbia HCA which stated that it would assume existing obligations. Staff noted that in 2000 when HealthSouth applied for change in effective control, the applicant provided information in the application that showed that in 1999 there were 210 cases of charity care provided at the facility and in 2001 it was projected to be provided 217 cases. Staff noted that data that was received as a result of developing information for this change order request indicates that less than 20 cases were provided in the last three years. Staff requested that the applicant address the basis for the projections in the change in effective control application with regards to charity care in 1999.

Ms. Rocha, legal counsel to the applicant, presented to the Committee its outreach program with regards to charity care. Ms. Rocha stated that Ms. Dugan, administrator at Wayland Square Surgicare ("WSS"), spoke with Dr. Block who is with a community

health center. Based on that conversation it was determined that out of 40% of adult population 20% are uninsured or Medicaid fee for services and the greatest need exists for colonoscopy services. Ms. Rocha stated Dr. Block suggested an allocation at WSS for Providence Ambulatory Center patients and that WSS will try to identify a GI doctor and provide time for such procedures. Ms. Rocha reviewed the status of the contacts made with other community health centers.

The Chairman requested that the applicant provide their protocols with regards to making a clinical decision regarding which patients qualify for services.

Staff stated that from 2003-2005 there were 14 cases of free care provided. Staff noted that in the application submitted in 2000, the applicant identified 4,209 procedures in 1999 and out of those 210 cases were provided as free care and projected 217 cases in 2001. Ms. Rocha stated that the 210 cases is an error and not the correct figure. She stated that this form must have been prepared at the corporate level. She stated that this is a mathematical calculation, 5% of 4,209 procedures.

The Chairman stated that he believes that other facilities are not aware of the free care offered at WSS and people are being deprived of them. He stated that there are concerns with all areas of charity care and not just at WSS.

**Dr. Browning, Medical Director at WSS, discussed the role of Outpatient Ambulatory Surgery Centers.**

**Mr. Ross noted that the facility depends on referrals and appreciated the effort the facility is taking in addressing charity care provision.**

**The Chairman noted that WSS readily accepted the charity care requirement as a condition of approval. He stated that the key is to address the situation and how the outreach program is going to work. He noted that wants to see how the facility is progressing before any changes are proposed. He noted that there is a population that needs these services and hospitals should not be only ones providing charity care.**

**Rev. Shire noted that he is uncomfortable letting the history pass because the company agreed to the requirement and ignored it for many years. He noted that additionally the applicant provided incorrect information in the change in effective control application. He stated that the Committee's concerns are not personal attacks but HealthSouth provided inaccurate information and one of the criteria for approving a change in ownership is the integrity of the company buying it and that failed. He noted that the Committee needs to consider what to do about the previous noncompliance. Mr. Ross stated that the purpose behind charity care is to make sure that providers are not going to turn away patients and there is a limit**

because it should not be a burden on the business. He stated that he wants to see how their outreach program works out. Ms. Graziano stated that the problem here is that patients are not being referred to this facility and how to get them there. She stated that their outreach proposal is a step forward.

Staff noted that the 5% figure was due to the fact that it was a referred service whereas hospital cannot turn away anyone who presents themselves in the emergency room. Staff inquired how the applicant will provide free care as a result of the outreach program. Ms. Dugan stated surgeons who are working that day at the facility would take on those patients.

With regards to the applicant's comment that 5% is not appropriate, the Chairman noted that it may or may not be. Staff stated that the issue is whether that amount is appropriate for your facility. The applicant requested that the Committee change the requirement from a set figure to just require the facility to have an outreach program. The Chairman stated that the intention is to retain the requirement for the present and monitor the effect of the outreach program. He request that the applicant report back on the status of the outreach program.

Rev. Shire stated that he feels the facility owes the community for its past noncompliance. The Chairman stated that he agrees with that. Ms. Rocha stated WSS was in communication with the Department

regarding the level of charity care and that the information in the change in effective control was a mathematical error. Rev. Shire stated that the decision was made based on that information. Mr. Williams stated that that WSS was told to ask for a change order request years ago. Staff noted that Rev. Shire is referring to 15 years non-compliance during which the applicant earned a lot of profit. Staff asked how the applicant plans to make up for the care that wasn't provided. Ms. Rocha stated that the applicant is here today to see if the Health Services Council is amenable to a lower requirement provided that the applicant demonstrates that's its done all possible to implement the free care obligation. The Chairman noted that WSS needs to establish a good outreach program and that there may be an obligation for not providing the care in the past. Rev. Shire suggested that the applicant explore retroactive compensation that it could offer the community. Mr. Ross stated that he is not sure about retroactive compensation.

To Mr. Coia's question regarding how WSS was supposed to provide 5% free care in the past if those patients were not referred, the Chairman noted that the facility should have been doing an outreach program. The Chairman noted that the 5% requirement has a big bearing on the application being approved in the past.

The Chairman request that the applicant report back on 11 May 2006 and provide an update on the outreach program.

**There being no further business the meeting was adjourned at 4:20 PM.**

**Respectfully submitted,**

**Valentina D. Adamova**